

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

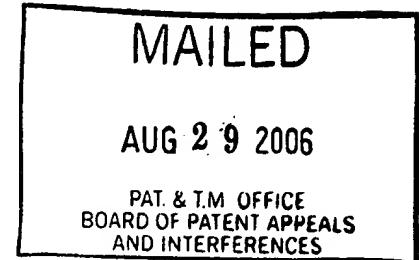
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DARYL CARVIS CROMER, BRANDON JOHN ELLISON,
ERIC RICHARD KERN, HOWARD JEFFREY LOCKER
and JAMES PETER WARD

Appeal No. 2006-1734
Application No. 09/855,624

ON BRIEF



Before THOMAS, HAIRSTON, and HOMERE, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 10 through 15, appellants having canceled claims 1 through 9 and 16 through 20.

Independent method claim 10 is reproduced below:

10. A method for providing update configuration data for a client personal computer system in a data network including a server, having configuration data including an internet protocol destination address, and at least one client personal computer system having a storage device for storing configuration data and a micro controller for receiving network signal packets from the server and for configuring the client personal computer system with updated configuration data, including the internet protocol destination address of the server, comprising the steps of:

receiving a network signal packet sent from the server in the micro controller in the at least one client personal computer system;

determining that the network signal packet includes the server's internet protocol destination address;

determining that the network signal packet is a match for the any one of the at least one client personal computer system; and

responding to the receiving, determining inclusion of the server's address and determining that the packet is a match by updating the storage device of the any one of the at least one client personal computer system with the included internet protocol destination address of the server included in the packet.

The following references are relied on by the examiner:

Crowle	5,857,072	Jan. 5, 1999
		(Filed Apr. 30, 1996)
Aziz et al. (Aziz)	6,119,234	Sep. 12, 2000
		(Filed Jun. 27, 1997)

Microsoft Computer Dictionary, 5th Edition, Redmond, Washington, Microsoft Press, 2002, pp 513.

Feit Sidnie, TCP/IP, McGraw Hill, 1997, Chapter 12, pp 269-290.

Claims 10 through 13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Aziz. Claims 14 and 15 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Aziz in view of Crowle.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for appellants' positions, and to the answer for the examiner's positions.

OPINION

For the reasons set forth by the examiner in the answer, as expanded upon here, we sustain the respective rejections of the identified claims under 35 U.S.C. § 102 and 35 U.S.C. § 103.

For their part, appellants appear to argue in the main brief on appeal principally the subject matter of independent claim 10 rejected within 35 U.S.C. § 102. The arguments in the second stated rejection of independent claim 15 at pages 6 and 7 of the principal brief on appeal do not argue against the combinability of Crowle with Aziz within 35 U.S.C. § 103. Generally, appellants apply the arguments of independent claim 10 to

those of independent claim 15. No arguments are present in the reply brief as to independent claim 15 and the reply brief appears to generally reargue the positions set forth in the principal brief on appeal as to claim 10.

We recognized and the examiner admits at the bottom of page 7 of the answer that Aziz does not explicitly use the word “packet” in the discussion in his patent. Apparently, because of this, appellants’ principal argument in the appeal brief and reply brief is that because Aziz does not teach packet communication techniques, Aziz cannot anticipate independent claim 10 on appeal and effectively independent claim 15 on appeal within 35 U.S.C. § 103.

From our study of the appeal brief and reply brief it appears clear to us that appellants have not appreciated the teaching value to the artisan of the whole reference to Aziz. Appellants’ approach appears to rely upon a literal reading of the reference. Appellants’ positions appear to presuppose the artisan knows nothing about networks, the Internet, and, for example, TCP/IP communication techniques taught in Aziz. Notwithstanding appellants’ own teachings in the specification as filed that the prior art encompasses these types of networks, appellants argue before us that the references which have similar teachings do not teach the use of packet

communication techniques in Aziz. Aziz has extensive teachings of using conventional TCP/IP communication techniques in the Internet within the general teachings of the networks taught in this reference such as the specific reference at the middle of column 2 mentioned by the examiner in the answer. The examiner has also made reference to the detailed description paragraph at the bottom of column 4 of Aziz which has corresponding teachings with respect to networks appellants are relying upon as an environment of use as well.

The rule that anticipation requires that every element of a claim appears in a single reference accommodates situations where the common knowledge of “technologists” is not recorded in a reference, i.e., where technical facts are known to those in the field of the invention. Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269, 20 USPQ2d 1746, 1749-50 (Fed. Cir. 1991). Similarly, In re Graves, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), confirms the longstanding interpretation that

the teachings of a reference may be taken in combination with knowledge of the skilled artisan to put the artisan in possession of the claimed invention within 35 U.S.C. § 102 even though the patent does not specifically disclose certain features.

Moreover, as we indicated earlier that appellants have not argued the combinability of Crowle with Aziz within the 35 U.S.C. § 103 rejection of independent claim 15, it is again noted that the middle paragraph of column 1 in Crowle teaches the corresponding types of networks disclosed and relied upon by appellants as the basis of their invention and which we have pointed out earlier are also used in the environment of Aziz. Significantly, within the context of Wide Area Networks respectively and Local Area Networks in Crowle, it is stated that a “packet contains a few hundred to a few thousand bytes of data and generally two addresses, a source address and a destination address” at column 1, lines 40 through 43 in the context of these networks. Additionally, the formal Internet protocol we have identified earlier (TCP/IP) is discussed in the next paragraph at column 1 of Crowle.

It is therefore clearly apparent to us that the artisan would have readily appreciated the teaching value of both references relied upon as relating to packet switching techniques leading us to conclude that, contrary to some arguments made in the brief and reply brief, Aziz as well as Crowley inherently necessarily teach the concept of packet switching and packet conveyance of information between networks and network terminals.

Appellants also argue the absence of the matching requirement of the independent claims on appeal as well as the updating capability of the storage device claimed. Both features are clearly taught and/or suggested in Aziz. The ability of Aziz to dynamically configure or otherwise dynamically update address information with respect to a client terminal's server is taught beginning in the abstract of Aziz. The Background Invention discussion in the paragraph bridging columns 2 and 3 of Aziz is also compelling. The latter portions of column 2 indicate that with respect to a condition where a server address has changed, the "configuration files would then have to be updated on every authorized client every time the address of a protected host changed. The network administrator could send

replacement files to every authorized client.” Column 2, lines 58 through 61. We also make specific reference to the first paragraph of the Summary of the Invention at column 4 of Aziz.

The requirements of address matching for communication purposes is well known in the Internet communication art and is mentioned briefly at the end of the first paragraph of the Background of the Invention at column 1 of Aziz. It is indicated there that just as a person who sends a letter through a normal postal service needs to know the recipient address, a client that communicates with a host via computer network also needs to know the host network address. This requires a matching function and clearly any time an address of a host computer would change on a network, the artisan would well appreciate that this address information would have to be updated in a clients’ memory files for bidirectional communication to occur.

Even in a secure communication environment, such as discussed at column 3 and throughout Aziz, cryptographic methodology known in the art requires a certain degree of matching of address information and other data

information for security purposes for communications to occur on a bidirectional basis. Since the artisan would well appreciate from the teachings in Aziz and Crowle that communications in a bidirectional basis and a network environment occur on a packet switched basis, the updatability and matching requirements of the claims on appeal will also be conveyed through packetized data techniques. As to independent claim 15, because Aziz already teaches the need for authentication and validation within a secure communication environment between a host computer and a client when operating in a secure environment, the features of independent claim 15 would have been obvious within Aziz and Crowle as well.

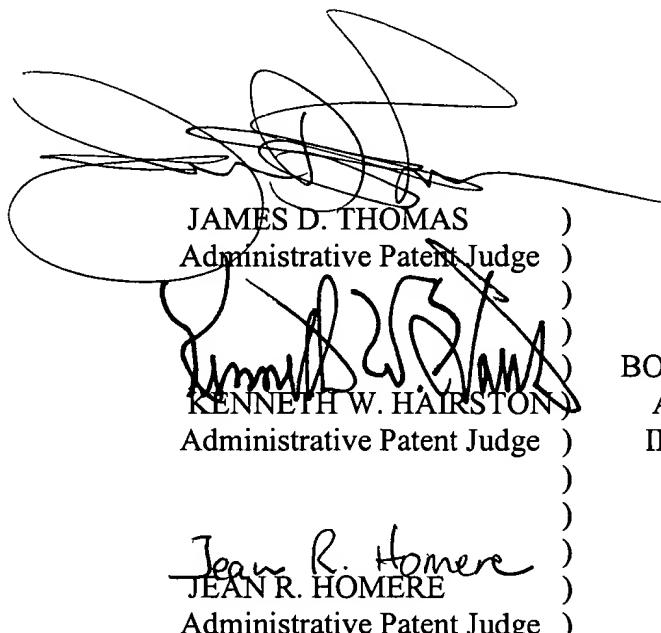
The responsive arguments portion of the answer mentions two dictionary references of record that the examiner relies on to prove the existence of packet switching, which are remarked upon by appellants beginning at the bottom of page 1 of the reply brief. Although these appear to be new documents, they are not grounds for characterizing the examiner's positions as setting forth a new ground of rejection. These dictionary

references are cited by the examiner to further substantiate facts already in the evidentiary record made by the examiner and appellants. As such, they are not considered a basis for a new ground of rejection but are considered standard reference works in the art. See In re Boon, 439 F.2d 724, 727, 169 USPQ 231, 2347 (CCPA 1971). Notwithstanding these considerations, note again we have expanded upon the teaching value of Aziz and Crowle earlier in this opinion.

In view of the foregoing, the decision of the examiner rejecting various claims under 35 U.S.C. § 102 and 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED



JAMES D. THOMAS)
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KENNETH W. HAIRSTON)
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